

Earlier this week, the Senator from Iowa, Mr. GRASSLEY, discussed the arm-twisting that took place. During an interview on Tuesday on an NBC affiliate in Iowa, he was asked whether undue influence had been exerted by Republican leadership. This is what he said: "Some had reluctance, but all signed." Again, "Some had reluctance, but all signed" on when asked whether undue influence had been exerted by Republican leadership.

I don't blame Senator GRASSLEY's colleagues for their reluctance. The Judiciary Committee once had a proud history of independence. This committee is 200 years old and is one of 11 committees that were formed when this body came into being. So their reluctance is understandable. It is understandable that the Republican members don't want to abdicate their independence. I don't blame those Senators for being reluctant to follow the Republican leader's orders for refusal to do their jobs. I don't blame them for their reluctance to banish the independence of the Judiciary Committee's past, ensuring that this once powerful, independent, strong committee's reputation is now nothing but a memory.

I wish the Judiciary Committee Republicans had been a bit more reluctant to sign on to the McConnell-Grassley letter, a pledge not to do their jobs. It appears most voters also think they should not have signed the letter. According to a new CNN poll that came out last night, two-thirds of Republicans want hearings on the President's Supreme Court nominee—almost 70 percent. Senate Republicans' pledge to obstruct doesn't make sense to the Republicans' own base.

The senior Senator from Iowa's blind adherence to the dictates of leadership doesn't stop there. The chairman of the Judiciary Committee was too timid to even meet with President Obama without the Republican leader's consent. He refused to go to the White House without the Republican leader by his side. When we all finally did meet with President Obama on Tuesday—the Republican leader, Democratic leader, chairman of the Judiciary Committee, and ranking member of the Judiciary Committee—at that meeting, the chairman wouldn't commit to meeting the nominee or holding hearings. He wouldn't do that. He wouldn't give the nominee a vote. That is what he told the President.

This is not what Senator GRASSLEY advocated before his party assumed the majority. Back in January 2015, on the Senate floor, the Senator from Iowa said:

We must get back to what we in the Senate call regular order. I would say do things the way Madison intended.

Everything the chairman has done since assuming the role runs counter to those words and what Madison intended and obviously what the senior Senator from Iowa had intended.

Allowing 11 Republican members of the Judiciary Committee—and they are

all men—to decide on behalf of 100 Senators and 300 million Americans that they will not even meet with or hold a hearing or vote on the Supreme Court nominee is certainly not regular order. This is about as irregular order as you can have. Given the opportunity to preside over a fair process, the chairman chose blind obedience to his party leaders instead. Nothing the Judiciary Committee chairman has done in the wake of this Supreme Court vacancy can be identified as regular order. It is about as irregular order as you can have.

Working behind closed doors is becoming the theme for Senator GRASSLEY and the Judiciary Committee. He sought to move a committee markup scheduled for today—a meeting that normally takes place in the full view of the public—behind closed doors. Everyone, think about that. This hearing has been scheduled for a long time, but the Republican leader wants to do it secretly. When Democrats objected, the chairman postponed the meeting altogether. No public hearing, a closed door hearing, Democrats objected, so he just canceled the meeting. This isn't transparency; this is obstruction and chaos.

Even Republicans agree—or at least some of them. Last week, the junior Senator from West Virginia said:

Do I worry that this would make the Senate look dysfunctional? That's a slight worry for me.

It may be a slight worry for the Senator from West Virginia, but it is a huge worry for the American people.

Again:

Do I worry that this would make the Senate look dysfunctional? That's a slight worry for me.

Well, it may be a slight worry for the Senator from West Virginia, but it is not a slight worry for the American people. It is a big, huge worry for the people of West Virginia.

The good news is that this can all be remedied very quickly. All my friend from Iowa needs to do is use the authority he has as the Judiciary Committee chair and give the President's nominee a meeting and a hearing. This would be what Iowa deserves and what this country deserves. All he needs to do is live up to his own words and be "fair," "respectful," "deliberative," and "thorough." Simply put, he needs to stop blindly following the Republican leader and just do his job.

Would the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

COMPREHENSIVE ADDICTION AND RECOVERY ACT OF 2015

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 524, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 524) to authorize the Attorney General to award grants to address the national epidemics of prescription opioid abuse and heroin use.

Pending:

Grassley amendment No. 3378, in the nature of a substitute.

Grassley (for Donnelly/Capito) modified amendment No. 3374 (to amendment No. 3378), to provide follow-up services to individuals who have received opioid overdose reversal drugs.

The PRESIDING OFFICER. The Senator from Illinois.

FILLING THE SUPREME COURT VACANCY

Mr. DURBIN. Mr. President, the year was 1936. President Franklin Roosevelt had just been reelected with an overwhelming majority, and he decided he had had enough of the U.S. Supreme Court. They had been striking down some key pieces of legislation in his New Deal package. So he came up with a bold plan in February of 1937. That bold plan was to add enough new Justices to the Supreme Court to tip the balance his way.

He presented this plan to change the Supreme Court for his political purposes to a Democratic Congress and a Democratic U.S. Senate, believing, with his big reelection majority and the fact that most of the Members of Congress had supported his New Deal agenda, that they would stand by him when it came to changing the Supreme Court so that it would start ruling his way. He was wrong. What happened then was that Members of the Senate decided to stand up to their President and to stand up for the Constitution.

A little-known Senator from Arizona, Henry Ashurst, was the chairman of the Senate Judiciary Committee. He deliberately delayed the FDR Court-packing proposal to a point where, when it was finally called, it was overwhelmingly defeated.

Think about that in the context of our current debate about filling this Supreme Court vacancy created by the untimely death of Justice Scalia. In that case, in 1937, the Senate Judiciary Committee and its chairman stood up for the Constitution first, over and above even the President of their own political party. This was a popular President; yet they believed the Constitution was more important than any political issue when it came to the New Deal.

So where are we today? We are in a situation where we have a vacancy on the Supreme Court. The Court still continues to hear cases of great historic moment—yesterday, the case involving abortion and I am sure, in weeks ahead, even more controversial issues. It is a Court that is at least limited by the fact that there are only eight Justices. In many instances, this Court is likely to end up with a tie—a decision which doesn't decide the law but leaves it still unresolved.

So what is our responsibility as this Senate at this time as we reflect on the Senate of 1937? Well, we only have to